



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: August 29, 2006

Contact: Maria Velasquez, Communications Director (619) 235-5725 (direct line) mvelasquez@sandiego.gov

AGUIRRE UNVEILS 21 REMEDIATION MEASURES ESSENTIAL TO CITY'S FISCAL REFORM; CALLS FOR PUBLIC DEBATE

Special September 6 City Council Session should be used to plan public debate

San Diego, CA: San Diego City Attorney Michael Aguirre today released 21 remediation measures, including legal requirements that are essential to guide the City of San Diego to fiscal stability and accountability. The measures are designed to place the City of San Diego on a path of reform in advance of the U.S. Securities & Exchange Commission (SEC) completion of its investigation into the City's financial disclosure practices and \$1.4 billion pension deficit.

Aguirre is also urging the City Council to use the upcoming Special Session (September 6, 1 p.m.) to plan public hearings on City Hall reforms that are contained in the Kroll Report/Mayor's Reform Plan and the City Attorney's Plan. He is cautioning against the hasty adoption of remedial steps that have not been fully analyzed and publicly debated, since many of the actions recommended in the Kroll Report require taxpayers to foot the bill.

"As the SEC completes its investigation, it is critical that the City of San Diego take initial steps to implement a serious and viable package of reform measures that have been thoroughly discussed, debated and endorsed by the public. Our citizens deserve nothing less," said City Attorney Aguirre.

The City Attorney's Plan is also subject to consideration by the SEC and is based on the following three fundamental principles:

- (1) Every elected official, appointed official, and employee of the City has a fiduciary duty to the people of San Diego;
 - (2) All public funds must be managed by City officials for the benefit of the public, who are their ultimate employers; and
 - (3) The San Diego City Council must recognize and acknowledge that there is a major corruption problem in city government. Individuals and entities doing business with the City have a moral, ethical and legal
- (MORE)

obligation to comport themselves appropriately and to engage honestly in their dealings with the City.

In light of these three fundamental principles, the City Attorney outlines the necessary remediation measures as follows:

1. The San Diego City Council must settle on behalf of the City with the SEC. Individuals, including members of the City Council subject to SEC investigation, must resolve any personal issues with the SEC separately without further expenditure of public funds.
2. The San Diego City Council shall admit unequivocally the wrongdoing in which certain Council members engaged regarding the scheme to underfund the pension plan and increase pension benefits with no funding.
3. The San Diego City Council shall adopt legislation that rescinds the creation of all illegal pension benefits and rescinds any related indemnification agreements.
4. The San Diego City Council shall direct the Comptroller to remove any illegal pension benefits from the accounts of City employees who have yet to retire.
5. The San Diego City Council shall rescind any elected official's pension benefits that were granted retroactively in 2001 and 2002.
6. The San Diego City Council shall place on the ballot in the next election a City Charter amendment granting the voters the opportunity to permanently require that any increase in City pension benefits will require a vote of the electorate.
7. The San Diego City Council will prepare a revenue enhancement plan for submission to the electorate at the next feasible election that will raise sufficient funds to pay for all legal pension benefits.
8. As recommended by former Mayor Dick Murphy's Pension Reform Committee, the San Diego City Council shall place on the ballot in the next election a City Charter amendment to change the San Diego City Employees' Retirement System (SDCERS) Board composition so that it will consist of seven independent members.
9. The San Diego City Council shall reinstate the City Attorney as the chief legal counsel to the SDCERS Board.
10. The San Diego City Council shall amend the Municipal Code to include a revised version of the Employee Retirement Income Security Act (ERISA), and the City Attorney will establish a separate legal section within the Office of the City Attorney to oversee the City's new pension plan.

(MORE)

11. In the next election, the San Diego City Council shall place on the ballot a City Charter amendment granting the voters the opportunity to determine whether to have an appointed or elected City Auditor.
12. The City Auditor shall be required to make quarterly reports on the financial condition of the City to the City Council and to the public.
13. If the City establishes an Audit Committee, its members should be comprised of the City Council, the Independent Budget Analyst, and the independent Auditor.
14. The Monitor function shall be fulfilled by the independently-elected City Attorney.
15. The independently-elected City Attorney shall remain the Chair of the Disclosure Practices Working Group (DPWG).
16. San Diego City Councilmembers will take mandatory financial management training with a continuing education requirement, and also be required to pass a related financial examination.
17. When issuing municipal bonds and approving the City's Certified Annual Financial Report (CAFR), the San Diego City Council must certify under penalty of perjury that the financial disclosure statements contain no material misstatements of facts and no misleading information, and that the City Council has read and understood the disclosures.
18. The San Diego City Council shall immediately disclose to the public any adverse financial facts discovered by them.
19. The City will pursue all third party claims to recover damages for breaches of duty owed to the City or the pension system including a recovery of the funds paid to Kroll, Inc.
20. The City will meet and confer about this Plan with credit rating agencies and the SEC, and based on these discussions, make any agreed-to changes in the Plan before it is implemented.
21. The City will seek to mediate any and all disputes arising under this Plan with interested parties in the context of resolving all outstanding litigation.

"There is no need to rush into adopting any plan without a meaningful public discussion. The implementation of any of these remediation measures will have no impact on the timing of the City's 2003 audit being conducted by KPMG, the City's outside auditor, or the City's re-entry into the municipal bond market," said City Attorney Aguirre.

The City Attorney's remarks were broadcast live on City TV 24 in a news conference held at 1:30 p.m. at City Hall. Related documents may be found on the City Attorney's website:

www.sandiegocityattorney.org

###